



ARIZONA STATE SENATE
Fifty-Second Legislature, Second Regular Session

AMENDED
FACT SHEET FOR S.B. 1500

industrial commission of Arizona; omnibus

Purpose

Eliminates Industrial Commission of Arizona (ICA) regulation of private employee agents and sunsets oversight of Boilers and Lined Hot Water Storage Heaters. Transfers adjudication of Arizona Division of Occupational Safety and Health (ADOSH) contests to the Office of Administrative Hearings (OAH). Specifies eligible activity, reporting and oversight required for ICA commissioner per diem compensation.

Background

The ICA was established in 1925 to regulate the workers' compensation system prescribed by Article 18, Section 8 of the Arizona Constitution. From 1925 to 1969, the workers' compensation system consisted of the State Compensation Fund and self-insured employers. In 1969, private insurance companies were added to the workers' compensation system and the State Compensation Fund was established as a separate agency to administer insurance coverage. The role of the ICA has been expanded to cover other labor related issues, including the enforcement of occupational safety and health standards in all public and private sector workplaces in Arizona, enforcement of youth employment and wage laws, administration and payment of vocational rehabilitation benefits to qualified injured workers and workers' compensation benefits to injured workers of uninsured employers and bankrupt self-insured employers.

ADOSH enforces occupational safety and health standards in all public and private sector workplaces in Arizona. ADOSH provides consultation training services to employers and employees and conducts inspections of workplaces (A.R.S. § 23-401) for compliance with the federal Occupational Safety and Health Act (OSHA). ADOSH retains federal approval of jurisdiction provided ADOSH remains "at least as effective as" the OSHA program.

The ICA policy setting body consists of five commissioners appointed by the Governor to staggered five years terms (A.R.S. § 23-101). Commissioners are eligible to receive \$50 for each day duties are performed.

The ICA is a self-supporting, non-general fund agency whose operations and other statutorily mandated functions are funded through an annual assessment on workers' compensation premiums. The ICA has the authority to levy assessments under A.R.S. §§ 23-

961(J), 23-1065(A), 23-1065(F) and 23-1081(A). The ICA has 270 FTEs, including 34.4 federally funded FTEs, and an operational budget of \$19,994,800.

Provisions

Commissioner Compensation

1. Changes per diem eligibility requirements for ICA commissioner stipends from *performing duties* to *preparing for or attending a commission meeting*.
2. Requires Commissioners to submit documentation of duties performed to the ICA Director for each day a per diem is requested.
3. Authorizes the ICA Director to deny per diem requests for insufficient documentation or ineligible activity.

ICA Regulation

4. Repeals ICA regulation of private employment agents and requires cash deposits and surety bonds collected by the ICA to be returned to the private employment agents.
5. Moves regulation of nanny or sitter services from the ICA to the Department of Health Services.
6. Stipulates that misrepresentations by an employment agent are unlawful pursuant to Title 44 consumer fraud statutes.
7. Continues, retroactive to July 1, 2016, the Boiler Advisory Board until July 1, 2018.
8. Repeals ADOSH requirements for Safety Conditions for Boilers and Lined Hot Water Storage Heaters on January 1, 2019.
9. Continues, retroactive to July 1, 2016, the ICA until July 1, 2024.
10. Repeals the ICA on January 1, 2025.

Arizona Division of Occupational Safety and Health (ADOSH)

11. Adds to the definition of trade secret *other information that the employer treats as confidential and has a reasonable basis for doing so*.
12. Requires ADOSH to contract with OAH for employer filings of contest provided OSHA does not reject this change to the ADOSH state plan.
13. Specifies that OAH decisions can be appealed to the ADOSH Review Board
14. Repeals the ICA's authority over witnesses, in an ADOSH contest, to:
 - a) compel attendance, testimony and production of evidence under oath;

- b) compensate at levels consistent with courts of the state; and
 - c) order testimony or evidence production by applying to a superior court
15. Allows ADOSH or the ICA, during inspection or investigation of employee misconduct in violation of employer policies, to consider substance abuse testing or other evidence of impairment while working.
16. Prohibits an ADOSH or ICA employee from communicating to an employer that the employer:
- a) should not or does not need to be represented by an attorney; or
 - b) may be treated more favorably if not represented by an attorney.
17. Prohibits an ADOSH and ICA employee from recording a person unless the person:
- a) knows they are being recorded;
 - b) consents to being recorded; and
 - c) is informed of their right to receive a copy of the recording.
18. Prohibits an ICA or ADOSH employee from obtaining a written statement from a person in an investigation without informing the person of their right to a copy of the written statement.
19. Continues, retroactive to July 1, 2016, the ADOSH Committee and Review Board until July 1, 2024.
20. Repeals the ADOSH Committee and Review Board on January 1, 2025.
21. Makes technical and conforming changes.
22. Becomes effective on the general effective date.

Amendment Adopted by Committee

- 1. Adds, to the definition of trade secret, *other information that the employer treats as confidential and has a reasonable basis for doing so.*
- 2. Specifies that OAH decisions can be appealed to the ADOSH Review Board.
- 3. Prohibits an ICA or ADOSH employee from obtaining a written statement from a person in an investigation without informing the person of their right to a copy of the written statement.
- 4. Removes a provision allowing an aggrieved person to file a complaint with the AG and requiring an employment agent contract to include a statement that the person may file a complaint to the AG.
- 5. Stipulates that misrepresentations by an employment agent are unlawful pursuant to Title 44 consumer fraud statutes.

Senate Action

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Prepared by Senate Research
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GH/rf